

### **REMARKS**

Claims 1, 2, 4, 7-9, 16-17, 43-44, 46, 48-53, and 54-63 are pending. Claims 1, 4, 7, 16-17, 43-44, 46, and 52-53 have been amended. Claims 54-63 have been added. Claims 2 and 10-14 have been cancelled.

#### **§ 112 Rejection**

Claim 52 has been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. Specifically, the rejection alleges that it “is unclear as to what the remainder of a wager is referring to” and it “is unclear as to who this consolation award is awarded.”

The Applicants disagree with the rejection. Nevertheless, to expedite prosecution, the claim has been amended to more clearly define the term “remainder” and to clarify who receives the consolation award.

#### **§ 103 Rejections**

Claims 1, 8, 10, 43-44, 46, 48, and 50 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,007,066 to Moody (“Moody”) in view of U.S. Patent No. 6,336,859 to Jones *et al.* (“Jones”).

Claims 2 and 4 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Moody in view of Jones as applied above, and further in view of U.S. Patent Application Publication No. 2004/0048646 to Visocnik (“Visocnik”).

Claim 7 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Moody in view of Jones as applied above, and further in view of U.S. Patent Application Publication No. 2003/0125102 to Cannon (“Cannon”).

Claim 9 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Moody in view of Jones as applied above, and further in view of U.S. Patent No. 6,599,193 to Baerlocher *et al.* (“Baerlocher”).

Claims 11-13 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Moody in view of Jones as applied above, and further in view of U.S. Patent No. 6,190,255 to Thomas (“Thomas”).

Claim 14 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Moody in view of Jones and in view of Thomas as applied above, and in further view of U.S. Patent Application Publication No. 2004/0002376 to Swift (“Swift”).

Claim 16 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Moody in view of Jones as applied above, and further in view of U.S. Patent Application Publication No. 2003/0236116 to Marks *et al.* (“Marks”).

Claim 49 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Moody in view of Jones as applied above, and in view of U.S. Patent Application Publication No. 2003/0064805 to Wells (“Wells”).

Claim 51 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Moody in view of Jones as applied above, and in view of U.S. Patent Application Publication No. 2001/0004607 to Olsen (“Olsen”).

Claim 53 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Moody in view of Jones as applied above, and U.S. Patent No. 6,609,973 to Weiss ("Weiss").

### **Personal Interview**

The Applicants note with appreciation the personal interview of March 31, 2009, with Examiners Ross Williams and John Hotaling. The Applicants agree with the Interview Summary in which the Examiner agrees that the "newly amended claim 1 and newly presented claim 54 appear to overcome the prior art of record" and that the "prior art of record fails to teach a progressive award that includes a plurality of free plays that increase based upon wager input." All the independent claims have been amended in accordance with the proposed amendments of claim 1 and claim 54.

During the interview, the Applicants' representatives Sorinel Cimpoe and Michael Blankstein briefly stated that the art of record fails to disclose a progressive award having a value that is determined by a plurality of free plays. The Examiners completely agreed.

### **Conclusion**

It is the Applicants' belief that all of the claims are now in condition for allowance and action towards that effect is respectfully requested. If there are any matters which may be resolved or clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at the number indicated.

A fee of \$130 for the one-month extension of time is being paid upon filing of the current response via the deposit account listed below. It is believed that no other fees are due; however,

should any fees be required (except for payment of the issue fee), the Commissioner is authorized to deduct the fees from Nixon Peabody LLP Deposit Account No. 50-4181, Order No. 247079-000254USPX.

Respectfully submitted,

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